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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,314	11/13/2003	Alexander Frank	3587-000010	1991
27572	7590	09/08/2004	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			TAWFIK, SAMEH	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/712,314	FRANK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sameh H. Tawfik	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 11-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11132003</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Group I (claims 1-10) in the reply filed on 08/03/2004 is acknowledged. The traversal is on the ground(s) that both groups of claims are sufficiently related to each other that an undue burden would not be placed upon the examiner by maintaining all groups in a single application. This is not found persuasive because the examiner as set forth on the restriction of paper # 07122004 there are difference between the two inventions and each one requires different search which will burden the examiner.

The requirement is still deemed proper and is therefore made FINAL.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

The abstract of the disclosure is objected to because applicants need to delete last line of the abstract “(figure 2)”. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6, 7 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 9 recites the limitation "the pivotable spindles" in 3. There is insufficient antecedent basis for this limitation in the claim.

(claim 6, line 3) "...jointly displaced transversely." is vague and indefinite because it is not clear as to the exact the retaining means jointly displaced transversely comparing to what?;

(claim 7, line 3) "...a transversely displaceable carriage." is vague and indefinite because it is not clear as to the exact the carriage is transversely displaceable comparing to what? Etc.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Calvert et al. (5,411,464).

Calvert discloses an apparatus for removing a folding-box blank from a magazine (Fig. 1; via hopper 14) and for erecting the same, the apparatus having a first retaining means (Figs. 5-8; via 16) for removing the folding-box blank and a second retaining means (Figs. 5-8; via 23) for erecting the folding-box blank by virtue of the second retaining means being moved relative to the first retaining means (Figs. 3-6), the first retaining means having means for gripping a first box wall (Fig. 3; via box wall 5) and the second retaining means having means for gripping a second box wall (Fig. 6; via wall 1), which is adjacent to the first box wall, wherein the first and second retaining means can be arranged such that they grip box walls located on the same side of the folding-box blank (Fig. 5).

Regarding claim 2: wherein the first and the second retaining means can be moved with one another and in relation to one another (Fig. 3).

Regarding claim 3: wherein the first retaining means can be swung through a swing-action angle relative to the second retaining means, the swing-action angle preferably being at least more or less 90 degrees (Figs. 3 and 7).

Regarding claim 4: wherein the first and the second retaining means can be jointly pivoted (Figs. 1 and 3).

Regarding claim 5: wherein the first and the second retaining means are arranged on a pivotable parallelogram linkage (Figs. 1 and 3; via tubular members 15, 18, and 25).

Regarding claim 6: wherein the first and the second retaining means can be “jointly displaced transversely” (Figs. 1 and 3).

Regarding claim 7: wherein the first and the second retaining means are arranged on “a transversely displaceable carriage” (Figs. 1 and 3).

Regarding claim 8: wherein the means for gripping the box walls are suction grippers (via suction cups 16 and 23).

Regarding claim 9: wherein the suction grippers are arranged on carrier bars, which are connected to “the pivotable spindles” of the retaining means (Figs. 1 and 3; via bars 15, 18, and 25).

Regarding claim 10: wherein there is provided an opening means, which projects through between folding tabs of the two adjacent box walls (Figs. 3 and 6-8).

***Conclusion***

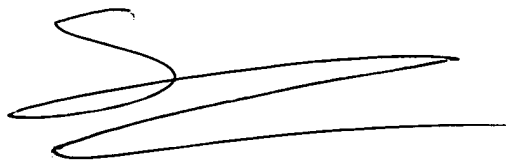
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ford 6050063, Palmer 5561968, Martelli 5473868, Culpepper 5415615, Decker 5207630, and Langen 4537587 disclose different apparatus for removing folding box blank.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is (703) 308-2809. The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sameh H. Tawfik  
Patent Examiner  
Art Unit 3721



ST.